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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

TYREE MAURICE MITCHELL,

Defendant and Appellant.

G041189

(Super. Ct. No. FVA020066)

ORDER MODIFYING OPINION  
AND DENYING PETITION FOR  
REHEARING; NO CHANGE IN  
JUDGMENT

It is ordered that the opinion filed herein on February 9, 2010, be modified as follows:

1. On page 17 of the opinion, add the following language as a new paragraph after the second full paragraph: “Defendant also contends there was insufficient evidence to support his sentence enhancement under section 186.22, subdivision (b) to show he ‘acted with the sole specific intent to benefit a criminal street gang.’ Because the statute does not require a sole specific intent, the statutory language is clear on its face and defendant does not state any authority for his argument, we deem it to be waived. (*Roden v. AmerisourceBergen Corp.* (2007) 155 Cal.App.4th 1548, 1575-1576.)”

This modification does not effect a change in the judgment. The petition for rehearing is DENIED.

MOORE, J.

WE CONCUR:

SILLS, P. J.

IKOLA, J.